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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,871	09/22/2003	Clifford W. Skillin	A-8397	4313

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,871

Applicant(s)

SKILLIN ET AL.

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-25 is/are pending in the application.
- 4a) Of the above claim(s) 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-10 and 15-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3-30-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 11-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on June 1, 2005.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: reinforcing stays are employed to strengthen said ribs “comprising a pair of raised shoulders positioned on the length of one end of the ribs and adjacent to the central gap”.

Claim Rejections - 35 USC § 112

3. Claims 1, 4-10 and 15-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the disclosure as originally filed for the “deck extending (horizontally) from the closure body”. The deck is a part of the closure body as seen in figure 1 and described at paragraph 0018. This is a **new matter** rejection.

Regarding claim 4, there is no support for the reinforcing stays “comprising a pair of raised shoulders positioned on the length of one end of the ribs” at paragraph 0020 or in drawing figure 2. The disclosure illustrates structure at the gap between the ribs, but none of the drawing figures nor the written description describe the stays as extending the length of the ribs. This is a **new matter** rejection.

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4. Claims 1,4-10, and 15-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

The structure of the closure is not clearly set forth in the claims.

- How can the deck extend from the closure body when it is a part of the closure body?
- Claims 5 and 6 do not appear to be setting forth different structure of the "segment". How is the narrowing of the rib to form the segment different from removing a triangular insert from the segment?
- Claims 9 and 21 do not set forth structure nor further limit the claims from which they depend. It is suggested the claims be cancelled or the functional limitations therein be incorporated in the claims from which they depend.

Claims 8 and 20 recite the limitation "the aligned" therein. There is insufficient antecedent basis for this limitation in the claims since only a "home position" has been previously set forth.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1,5-10,15,17-23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarz (DE 19 652 148) in view of Lynn (US 4,289,248).

Schwarz teaches the claimed container and closure except for the ribs on a chord inside the closure, the lug on the container collar, interrupted beads on the closure and a dovetail arrangement between the lug and ribs. The term "chord" is given its broadest reasonable interpretation as a segment joining two points on a curve.

Lynn teaches it is known to provide engaging ribs on either of the closure and container and an engaging lug on the other of the closure and container.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ribs on a chord inside the closure and the engaging lug on the container collar of Schwarz as taught by Lynn, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art.

Regarding the shape of the lug and ribs to form the dovetail arrangement, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the corresponding engaging portions of the lug and ribs of a shape necessary to form a dovetailed arrangement since such a modification would have involved a mere change in the shape of a component and change in shape is generally recognized as being within the level of ordinary skill in the art. Doing so provides a more secure engaging arrangement between the ribs and lug as is known in the art.

Regarding the interrupted bead, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an interrupted bead on the closure for snap engagement with an annular bead on the container since the examiner takes Official Notice of the equivalence of annular beads, interrupted beads, and screw threads for their use in the container art and the selection of any of these known equivalents to secure a closure to a container would be within the level of ordinary skill in the art.

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7. Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lohrman et al (US 5,143,234) in view of Lynn.

Lohrman teaches the claimed closure except for ribs on a chord inside the closure. The term "chord" is given its broadest reasonable interpretation as a segment joining two points on a curve.

Lynn teaches it is known to provide engaging ribs on either of the closure and container and an engaging lug on the other of the closure and container.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ribs on a chord inside the closure and the engaging lug on the container collar of Schwarz as taught by Lynn, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art.

Allowable Subject Matter

8. Claims 4,16, and 24 avoid the art of record. However, the claims contain new matter and have been rejected under 35 USC 112, 1st and 2nd paragraphs. In view thereof, the claims cannot be deemed allowable.

Response to Arguments

9. Applicant's arguments with respect to claims 1-10 and 15-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner

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can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH
August 5, 2005



Robin A. Hylton
Primary Examiner
GAU 3727